

CALENDAR ITEM

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PRC 4590.1

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**GENERAL LEASE – RECREATIONAL AND PROTECTIVE
STRUCTURE USE**

APPLICANT:

G.W. Zehender, Trustee of the G.W. Zehender Declaration of Trust dated
December 21, 2001

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Calaveras River, adjacent to 4107 Yacht Harbor
Drive, near Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse, walkway,
ramp, dock, and pilings previously authorized by the Commission and use
and maintenance of existing bulkhead not previously authorized by the
Commission.

LEASE TERM:

10 years, beginning July 28, 2016.

CONSIDERATION:

Boathouse, Walkway, Ramp, Dock, and Pilings:

\$170 per year, with an annual Consumer Price Index adjustment.

Bulkhead: The public use and benefit, with the State reserving the right at
any time to set a monetary rent if the Commission finds such action to be
in the State's best interests.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$1,000,000 per
occurrence.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On December 12, 2002, the Commission authorized a Recreational Pier Lease for the existing boathouse, walkway, ramp, dock, and pilings to Charles A. Sherrow and Susan A. Sherrow ([Calendar Item C2, December 16, 2002](#)). The lease expired on November 30, 2012. On July 28, 2016, ownership of the upland was transferred to Applicant. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the continued use and maintenance of the existing boathouse, walkway, ramp, dock, and pilings previously authorized by the Commission and use and maintenance of the existing bulkhead.

The Applicant owns the upland adjoining the lease premises. The subject dock and appurtenant facilities are privately owned and maintained and are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The bulkhead has existed for many years at this location, and was shown on exhibits previously before the Commission. The bulkhead will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes by the public.

The subject structures do not significantly alter the land; the lease does not alienate the State's fee simple interest or permanently impair or public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing boathouse, dock, and appurtenant facilities will not substantially interfere with Public Trust needs at this location at this time, and for the foreseeable term of the proposed lease.

The proposed lease includes certain provisions protecting the public use of the lease area, including a limited lease term of 10 years and a non-exclusive use provision. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a

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result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities within the proposed lease area are located on the Calaveras River, at a tidally-influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. The facilities associated in this lease area include an existing floating boathouse, floating walkway, adjustable ramp, floating dock, pilings, and bulkhead protection in the Calaveras River, adjacent to 4107 Yacht Harbor Drive, city of Stockton. Sea-level rise coupled with other dynamic coastal processes and events such as scour, erosion, extreme tides, and storm surge could pose increased flooding risks to the lease area.

By 2030, the coastal region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). These changes in sea level could lead to changes in the regular inundation levels within the lease area. Rising sea levels can lead to more frequent flooding in low lying areas and more dynamic tidal events. As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability.

Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding, storm flow, and runoff will likely increase scour and decrease bank stability at a faster rate. The bulkhead structure and bank vegetation would provide stability and reduce the amount of erosion and scour pressure the bank may experience during future events, but remains at risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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The floating boathouse, floating walkway, floating dock, and adjustable ramp are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features (pilings and bulkhead protection) may need to be reinforced to withstand higher levels of flood exposure. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Pursuant to the proposed lease, the Applicant acknowledges that the Lease Premises are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code

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section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to G.W. Zehender, Trustee of the G.W. Zehender Declaration of Trust, dated December 21, 2001, beginning July 28, 2016, for a term of 10 years, for an existing boathouse with walkway, ramp, dock, and pilings previously authorized by the Commission and existing bulkhead not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the boathouse, walkway, ramp, dock, and pilings: \$170 per year, with an annual Consumer Price Index adjustment; consideration for the bulkhead: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4590.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Calaveras River (historical bed of the San Joaquin River), lying adjacent to Swamp and Overflowed Land Survey 1299 patented March 10, 1873, County of San Joaquin, State of California and more particularly described as follows:

All those lands underlying an existing boat house, walkway, dock, ramp and four pilings lying adjacent to that parcel described in Grant Deed, recorded July 28, 2016 in Document No. 2016-087554 in Official Records of said County.

TOGETHER with that land lying immediately beneath any bank protection structure adjacent to said parcel.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

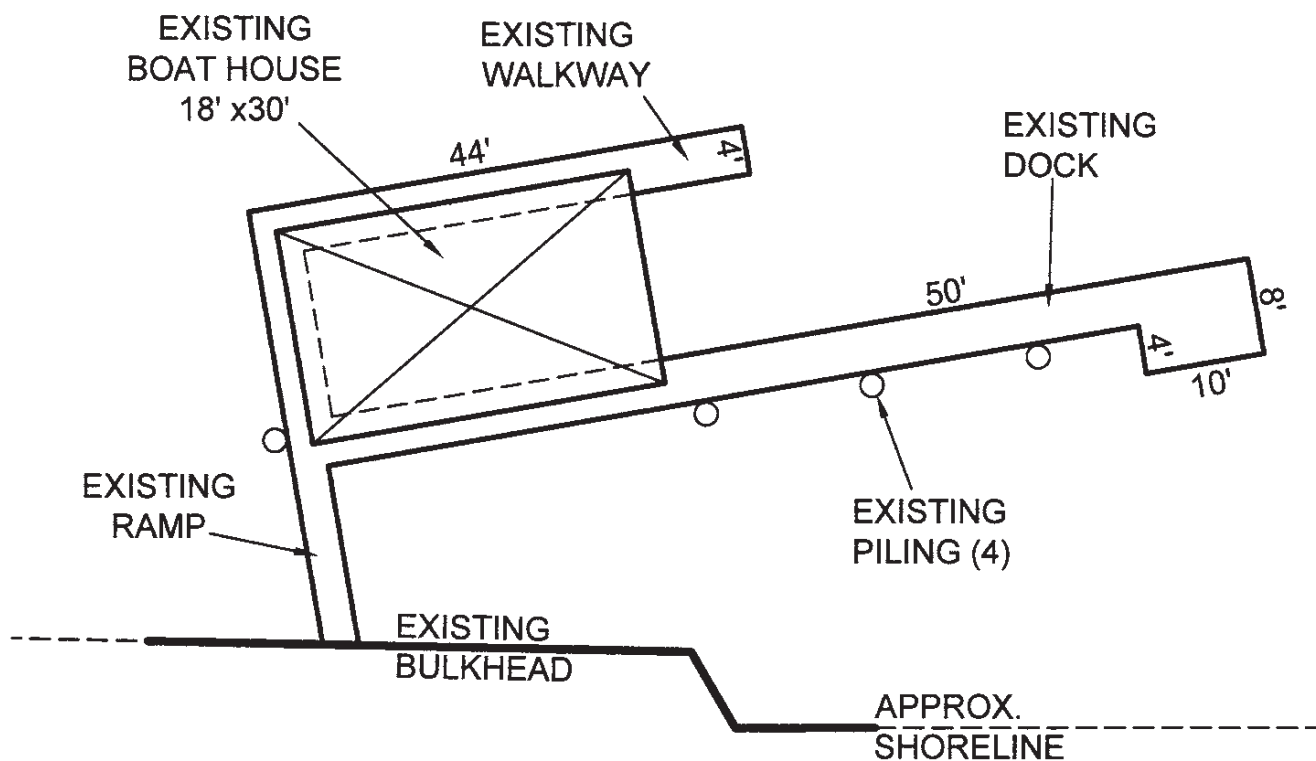
END OF DESCRIPTION

Prepared 10/19/16 by the California State Lands Commission Boundary Unit





CALAVERAS RIVER



APN 109-050-10

EXHIBIT A

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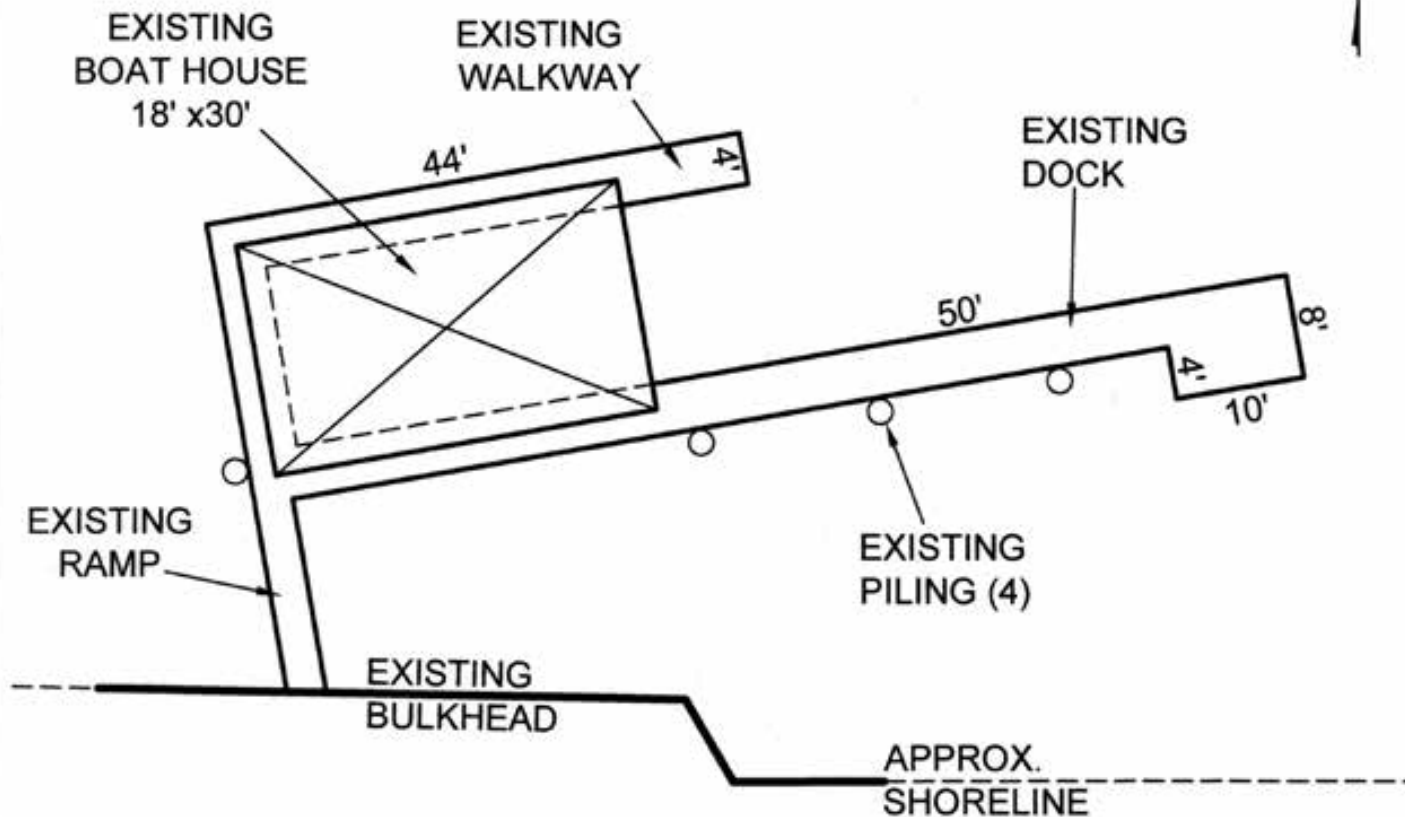
LAND DESCRIPTION PLAT
PRC 4590.1, ZEHENDER TRUST
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE CALAVERAS RIVER



APN 109-050-10

4107 YACHT HARBOR DRIVE, STOCKTON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 4590.1
ZEHENDER TRUST
APN 109-050-10
GENERAL LEASE -
RECREATIONAL AND
PROTECTIVE
STRUCTURE USE
SAN JOAQUIN COUNTY



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